

Remarks

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-10, 15, 16, 18-29, 31-34, and 36-44 are pending in the application, with claim 1 being the sole independent claim. Claims 10, 15, 26 and 28 are sought to be amended. New claim 44 is sought to be added. These changes have been made to correct the form of the claims and are believed to introduce no new matter. Since the amendments have been made to comply with a requirement of form expressly set out in the previous Office Action (*see* Paper No. 11, page 3), the amendments after final rejection should be entered and considered. *See* 37 C.F.R. § 1.116(b).

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Claim Objections

Claims 15, 19, 21, 23, 25-28, 31 and 40-43 were objected to under 37 C.F.R. § 1.75(c) as being in improper form because a multiple dependent claim must be recited in the alternative and cannot depend from a multiply dependent claim. (*See* Paper No. 11, page 3.) The dependency of the claims has been amended so that the multiple dependent claims are recited in the alternative and no multiple dependent claim depends from a multiple dependent claim. Therefore, the objection to claims 15, 19, 21, 23, 25-28, 31 and 40-43 has been fully accommodated and should be withdrawn.

Claim Rejection Under 35 U.S.C. § 102

Claims 1-10, 15, 16, 18-29, 31-34 and 36-39 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Fike *et al.*, WO 98/36051. (See Paper No. 11, pages 3-4.) Applicants respectfully traverse this rejection.

Under 35 USC § 102, a claim can only be anticipated if every element in the claim is expressly or inherently disclosed in a single prior art reference. See *Kalman v. Kimberly Clark Corp.*, 713 F.2d 760, 771 (Fed. Cir. 1983), *cert. denied*, 465 U.S. 1026 (1984). Since WO 98/36051 does not disclose all of the elements of any of the present claims, the rejection under § 102 was improper and should be withdrawn.

Claim 1 is directed to a method for producing an automatically pH-adjusting dry powdered culture medium, comprising: (a) determining the ratio of pH-opposing forms of buffer salts required to be added to said powder to automatically provide a desired final pH upon reconstitution of said powder with a solvent; and (b) adding amounts of pH-opposing forms of buffer salts to said powder in the ratio determined in step (a); to produce an automatically pH-adjusting dry powdered culture medium having said desired final pH upon reconstitution. Claims 2-10, 15, 16, 18-29, 31-34 and 36-39 depend, either directly or indirectly, from claim 1.

WO 98/36051 does not disclose determining the ratio of pH-opposing forms of buffer salts required to be added to a powdered culture medium to automatically provide a desired final pH upon reconstitution of the powder with a solvent. WO 98/36051 mentions that "one or more buffer salts, *e.g.*, sodium bicarbonate, may be added directly to a powdered nutritive medium . . ." (WO 98/36051 at page 20, lines 3-4.) There is no mention, however,

of *pH-opposing forms* of buffer salts, or of *determining the ratio* of pH-opposing forms of buffer salts, in WO 98/36051.

Since WO 98/36051 does not expressly or inherently disclose all of the elements of the present claims, WO 98/36051 cannot and does not anticipate the claims. Accordingly, Applicants respectfully request that the rejection of claims 1-10, 15, 16, 18-29, 31-34 and 36-39 under 35 U.S.C. § 102(b) be reconsidered and withdrawn.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Frank R. Cottingham
Attorney for Applicants
Registration No. 50,437

Date: MAY 12, 2003

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

Version with markings to show changes made

10. (Once amended) An automatically pH-adjusting dry powdered culture medium produced by the method of any one of claims [1-3 and 9] 1, 2, 3 or 9.

15. (Twice amended) A method of cultivating a cell comprising preparing an automatically pH-adjusting dry powdered culture medium prepared according to the method of any one of claims [1-3 and 9] 1, 2, 3 or 9, reconstituting the medium with at least one solvent to form a culture medium solution, and contacting a cell with said solution under conditions favoring cultivation of the cell.

26. (Once amended) The method of claim 24 [or claim 25], wherein said animal cell is a mammalian cell or a cell line derived therefrom.

28. (Once amended) A kit for culturing a cell, comprising one or more containers containing an automatically pH-adjusting dry powdered culture medium prepared according to the method of any one of claims [1-3 and 9] 1, 2, 3 or 9.

Claim 44 is sought to be added.